

## 12/19/2017 Teleconference with Tribes on 404 Assumption Suggested Talking Points

Thank you for taking time to talk with us this morning.

I am very pleased to talk with representatives from the Miccosukee Tribe, the Seminole Tribe and the Poarch Band of Creek Indians and appreciate the opportunity to share some basic information about the option for states and Tribes to assume the administration of section 404 of the Clean Water Act.

While section 404 of the Clean Water Act authorizes the Army Corps of Engineers to administer the permitting of the discharge of dredge or fill material to waters of the U.S., states and Tribes can assume the 404 program subject to the review and approval by the EPA for certain waters within their jurisdiction.

The ability to assume a 404 program has been an option under the CWA since the 1970s.

- however, to date only two states (Michigan and New Jersey) and no Tribes have assumed the 404 program.

The Florida Department of Environmental Protection notified my office several months ago that they are seriously exploring assumption of the 404 program.

While I cannot speak for FDEP, we understand that FDEP may potentially submit an assumption package for the EPA's review as early as August of 2018.

For any State or Tribe that is interested in exploring or pursuing 404 assumption, the EPA is very interested in providing any needed assistance to help with the understanding of the requirements and the assumption process set forth under the Clean Water Act.

The purpose of today's call is to provide an introduction to 404 assumption, which we hope will be beneficial for 2 reasons:

- It will provide basic information about the regulatory process that would be followed in the event that FDEP submits an assumption package for EPA's review and approval/disapproval;
- It will provide basic information for your consideration in the event that any of you may wish to potentially explore assumption of the administration of 404 for your Tribal waters.

I want to emphasize that a state or Tribe can only assume the 404 program for discharges of dredge/fill material to waters within its jurisdiction.

- For example, if Florida were to assume the 404 program, the Corps of Engineers would continue to administer the 404 program for all discharges to Tribal waters.

Optional: In addition, the Corps retains the authority to administer the 404 program for any discharges to waters that are regulated by the Corps under the Rivers and Harbors Act.

I also wish to acknowledge that in the event that FDEP submits an assumption package to EPA for review, we would view our review and approval/disapproval as an action that is subject to consultation with the Tribes.

While we hope to answer any questions you have during today's call, we are pleased to continue discussing this matter with any/all of your offices and are happy to set-up any follow-up meeting or calls to the extent there is a need or is interest.

Again, I very much appreciate the opportunity to talk with you today and hear any questions or concerns that you may have at this point.

I will now turn it over to Tom McGill to provide a presentation on assumption, using the materials that Lisa attached to the meeting invitation yesterday.